

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

25993

FILE: B-210317.2

DATE: August 15, 1983

MATTER OF: Chemical Compounding Corporation--
Reconsideration

DIGEST:

Prior decision holding that cancellation of IFB after bid opening was proper is affirmed since it has not been established that the decision was based on errors of fact or law.

Chemical Compounding Corporation (Chemical) requests reconsideration of our decision in Chemical Compounding Corporation, B-210317, May 10, 1983, 83-1 CPD 499, in which we denied Chemical's protest concerning the Defense Logistics Agency's cancellation of invitation for bids (IFB) No. DLA400-82-B-6758 for chlorination kits.

In denying Chemical's protest, we held that the contracting officer acted reasonably at the time of her decision to cancel the IFB in view of the premature opening of three bids (including Chemical's low responsive bid), the protest of that premature opening by the awardee on the prior IFB for these kits, which had not bid relying on an indefinite bid opening extension, and the number of potential bidders.

Chemical argues that our Office failed to provide a definition or standard to determine whether an action is reasonable. Further, Chemical contends that the equities due the firms which had bids prematurely exposed outweighed the rights of potential bidders since adequate competition was obtained and the prices were reasonable. Chemical also argues that Scott Graphics Incorporated, et al., 54 Comp. Gen. 973 (1975), 75-1 CPD 302, relied upon by our Office, supports its position that there were no cogent or compelling reasons to cancel the IFB. For the following reasons, we affirm our decision.

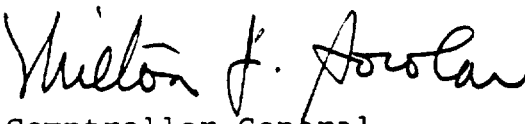
We agree with Chemical that cancellation is improper absent a cogent and compelling reason. However, a contracting officer's authority to cancel a solicitation is broad and, in the absence of a clear lack of reason, a decision to cancel a solicitation will be upheld. The propriety of a particular cancellation "must stand upon its own facts." Edward B. Friel, Inc., 55 Comp. Gen. 231, 240 (1975), 75-2 CPD 164. While we agree that the exposure of the prematurely opened bids was a factor to be considered

026405

by the contracting officer, we cannot conclude that the contracting officer's decision to cancel based on a balancing of the above circumstances was without reason.

In Scott, we held that cancellation was supportable where the contracting agency failed to solicit the incumbent contractor which was one of a limited number of manufacturers of the items being procured. Chemical argues that our reliance on Scott was misplaced because, there, the incumbent was unaware of the solicitation; here, the prior awardee was aware of the solicitation and allegedly was negligent. First, we see no merit in Chemical's argument that the prior awardee's failure to bid prior to or shortly after the original bid opening date was negligent and improperly contributed to its inability to compete. Second, in Power Energy Industries, B-209705, July 5, 1983, 83-2 CPD _____, we held that the elimination of one of a limited number of sources which had failed to bid due to misleading agency advice as to an extended bid opening date might very well have independently supported an agency cancellation decision.

We conclude that Chemical has not established that our prior decision was based on an erroneous interpretation of either fact or law. Therefore, we affirm our decision.

for 
Comptroller General
of the United States